

S.B. 345
S.B. 435
S.B. 452
S.B. 479
S.B. 497
S.B. 581
S.B. 583
S.B. 634
S.B. 667
S.B. 1011
S.B. 1032
S.B. 1064
S.B. 1071

SEVENTY-EIGHTH DAY
(Wednesday, May 21, 1975)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: McKnight.

A quorum was announced present.

The Reverend David Schroder, Redeemer Lutheran Church, Austin, Texas, offered the invocation as follows:

Eternal God, our Father, we first of all praise You for this land of freedom and abundance. For the mountains and the plains, for the rivers and the lakes, for the rich soil and for the rare minerals, we thank You.

We come here this morning because You have placed us here. We know our responsibilities; our dedication to justice and freedom. Help us to act in the best interests of the people whom we serve.

This morning we recognize this great responsibility. And we ask for Your blessing of courage, of understanding, of love, and forgiveness. These are the gifts You bestow upon us each day because indeed You are our Lord and Savior.

We pray this prayer in the name of The Father Who made the world and made us and placed us here; in the name of The Son Who loved us so much that He died for us all; in the name of The Holy Spirit that gives us the strength of faith and the power to enjoy this life. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator McKnight was granted leave of absence for today on account of illness on motion of Senator Moore.

REPORTS OF STANDING COMMITTEES

Senator Schwartz submitted the following reports for the Committee on Jurisprudence:

H.B. 652
H.B. 519
H.B. 197
H.B. 1157
H.B. 965
H.B. 756
H.B. 1325
S.B. 934
S.B. 932
S.B. 1085 (Amended)
H.B. 839 (Amended)
H.B. 1619
C.S.S.B. 933 (Read first time)

Senator Adams submitted the following reports for the Committee on Administration:

H.C.R. 119 (Ordered not printed)
H.C.R. 120 (Ordered not printed)
S.C.R. 85 (Ordered not printed)
S.C.R. 81 (Ordered not printed)
H.C.R. 81 (Ordered not printed)
S.C.R. 78 (Ordered not printed)
S.C.R. 77 (Ordered not printed)
S.C.R. 75 (Ordered not printed)
S.R. 508 (Ordered not printed)
S.B. 1101 (Ordered not printed)
S.B. 1111 (Ordered not printed)
C.S.S.B. 1073 (Read first time) (Ordered not printed)
H.B. 820

Senator Mauzy submitted the following reports for the Committee on Education:

H.B. 2136 (Amended)
H.B. 1238
H.B. 1367
H.B. 570
H.B. 280

Senator Snelson submitted the following reports for the Committee on Intergovernmental Relations:

H.B. 1660 (Amended)
H.B. 2141 (Amended)
H.B. 458 (Amended)
S.B. 614 (Amended)
H.B. 868
H.B. 2177
H.B. 1580
H.B. 428
H.B. 1893
H.B. 427
H.B. 1494
H.B. 2055
H.B. 881
S.B. 1109
H.B. 305
H.B. 1530
H.B. 651
S.B. 1122
S.B. 1119
H.B. 2173
S.B. 1110
S.B. 1106
H.B. 1575
H.B. 2020

SENATE BILL AND RESOLUTION ON FIRST READING

The following bill and resolution were introduced, read first time and referred to the Committee indicated:

By Senator Moore:

S.B. 1123, A bill to be entitled An Act ratifying, confirming, approving and validating all actions taken by the Board of Directors of Montgomery County Municipal Utility District No. 19, in excluding 56.6888 acres of land, more or less, from said District; providing a savings clause; and declaring an emergency.

To Committee on State Affairs.

By Senator Braecklein:

S.C.R. 87, Directing State Artist Committee to announce their selection at Texas State Arts and Craft Fair in Kerrville.

To Committee on Administration.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

May 20, 1975

Honorable William P. Hobby
Lieutenant Governor
President of the Senate
Austin, Texas

Honorable Bill Clayton
Speaker of the House of Representatives
Austin, Texas

Honorable Members of the Legislature
Austin, Texas

Honorable Lt. Governor, Honorable Speaker, and Honorable Members of the Legislature:

Today, I am submitting as an emergency matter the accompanying measure under the provisions of Article III, Section 5, of the Constitution of the State of Texas.

I urge your prompt consideration and enactment of this legislation.

Respectfully submitted,
DOLPH BRISCOE
Governor of Texas

TO THE MEMBERS OF THE SIXTY-FOURTH LEGISLATURE, REGULAR SESSION:

Pursuant to the provisions of Section 5, Article III of the Constitution of the State of Texas, I herewith submit as an emergency matter the following:

Senate Bills 635, 491, and 466 each pertaining to medical liability insurance.

Respectfully submitted,
DOLPH BRISCOE
Governor of Texas

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 398 ADOPTED

Senator Ogg called from the President's table the Conference Committee Report on **H.B. 398**. (The Conference Committee Report having been filed with the Senate and read on May 20, 1975.)

On motion of Senator Ogg, the Conference Committee Report was adopted.

RECORD OF VOTES

Senators Meier, Creighton and Patman asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

SENATE RULE 103 SUSPENDED

On motion of Senator Moore and by unanimous consent, Senate Rule 103 was suspended in order that the State Affairs Committee might consider **S.B. 1123** today.

SENATE RESOLUTION 592

Senator Adams offered the following resolution:

WHEREAS, The dean of the Texas Senate, a man who holds the distinction of the longest tenure in the Senate in the history of this state, will observe another occasion of significant durability on Sunday, May 25, 1975: on that date, Senator A. M. Aikin, Jr., and his wife, the former Miss Welma Morpew, will celebrate their 46th Wedding Anniversary; and

WHEREAS, The Aikins' entire married life has been punctuated by politics, but the only time Mrs. Aikin was taken aback at his participation in the political arena was the first time he decided to run for a seat in the House of Representatives in 1932; and

WHEREAS, The Aikins met while she was attending junior college in Paris, and after they were married she taught school and he went to law school at Cumberland University in Tennessee. As Mrs. Aikin tells it, "I was so surprised when he told me he had decided to run for the legislature. His father and I campaigned for him until he came home from law school in June. Yes, he won."; and

WHEREAS, Mrs. Aikin has taken part in countless campaigns since that time, including the one in which he was elevated to the Texas Senate in 1936; Austin is a second home to the Aikin family after 40 years of legislative service, and Mrs. Aikin is able to indulge her favorite hobby of gardening by participating in Austin flower shows as well as those in her own Paris area; and

WHEREAS, As important in gardening circles as her husband is in those political, Mrs. Aikin is qualified as a national flower show judge, and holds so many blue ribbons and red ribbons and tri-color sweepstakes awards that she is a much-sought speaker on flower arrangements; Mrs. Aikin will return to Austin from a national garden club meeting in Salt Lake City just in time for the couple's anniversary; and

WHEREAS, Mrs. Aikin also shares her husband's interest in education and state government, and during the many years in which Senator Aikin's leadership has been monumental in improving the Texas public school system, she has been by his side offering suggestions and encouragement; and

WHEREAS, As an ex-school teacher, she is perhaps closer to the situation than many in the legislature: she holds a master of arts degree from The University of Texas at Austin, which she obtained through courses taken during three legislative sessions; and

WHEREAS, As members of the Senate's official family, Senator and Mrs. Aikin hold a special place in the hearts of all who know them, and it is appropriate that the Senate of the 64th Legislature of the State of Texas honor the Aikins on their 46th Wedding Anniversary; now, therefore, be it

RESOLVED, That the Senate of the 64th Legislature of the State of Texas hereby congratulate Senator and Mrs. A. M. Aikin, Jr., on the celebration of their 46th Wedding Anniversary on Sunday, May 25, 1975; and, be it further

RESOLVED. That an official copy of this resolution be prepared for the Aikins, and for their son, Bobby, as a memento of yet another memorable occasion and with best wishes from colleagues and friends who know and love them.

The resolution was read.

On motion of Senator Jones and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Adams, the resolution was adopted.

COMMITTEE SUBSTITUTE SENATE BILL 762 CALLED FROM THE TABLE

Senator Hance moved that **S.B. 762** be Called from the Table.

(Senator Gammage in the Chair)

Pending discussion of the motion to call **S.B. 762** from the Table, Senator Moore raised the Point of Order that a motion to Call from the Table is not a debatable motion.

The Presiding Officer sustained the Point of Order.

(President in the Chair)

The motion to call **S.B. 762** from the Table prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Mauzy, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Sherman, Snelson, Traeger and Williams.

Nays: Longoria and Schwartz.

Absent-excused: McKnight.

COMMITTEE SUBSTITUTE SENATE BILL 762 ON SECOND READING

The President then laid before the Senate on its second reading and passage to engrossment:

C.S.S.B. 762, A bill to be entitled An Act relating to public mass transportation adding Article 6.07a, Title 122A, Taxation--General, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency. (The bill having been read second time, amended and Laid on Table Subject to Call on April 3.)

Senator Hance offered the following amendment to the bill:

Amend **C.S.S.B. 762** by striking all of Sections 5, 6, and 7 and substituting in lieu thereof the following:

"Sec. 5. **PUBLIC TRANSPORTATION FUND.** The Public Transportation Fund is established as a special fund in the State Treasury. The Public Transportation Fund may only be used by the State Department of Highways and Public Transportation in carrying out the responsibilities and duties of the Commission and

the Department for public transportation as established under State law. Grants of money to the State from public and private sources for public transportation shall be deposited in the Public Transportation Fund. There is hereby appropriated, allocated, transferred, and credited to the Public Transportation Fund the sum of One Million Dollars (\$1,000,000) for use by the Department for the period from the effective date of this Act through August 31, 1975. There is hereby appropriated, allocated, transferred, and credited to the Public Transportation Fund the sum of Fifteen Million Dollars (\$15,000,000) for each year of the biennium beginning September 1, 1975, for use by the Department for public transportation in the State.

"Sec. 6. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The amendment was read and was adopted.

On motion of Senator Hance and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 762 ON THIRD READING

Senator Hance moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.B. 762 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Mauzy, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Sherman, Snelson, Traeger and Williams.

Nays: Longoria and Schwartz.

Absent-excused: McKnight.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Mauzy, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Sherman, Snelson, Traeger and Williams.

Nays: Longoria and Schwartz.

Absent-excused: McKnight.

MESSAGE FROM THE HOUSE

Hall of the House of Representatives
Austin, Texas, May 21, 1975

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 142, Authorizing display of cut-glass windows from skylight over north wing of the Capitol.

Respectfully submitted,
DOROTHY HALLMAN
Chief Clerk, House of Representatives

HOUSE CONCURRENT RESOLUTION 24 ON SECOND READING

On motion of Senator Patman and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

H.C.R. 24, Memorializing the congress to enact price subsidies and import restrictions to relieve Texas farmers and ranchers.

The resolution was read second time.

Senator Patman offered the following Committee Amendment to the resolution:

Amend **H.C.R. 24**, by striking the words "price subsidies and" on page 2 of said H.C.R.

The Committee Amendment was read and was adopted.

On motion of Senator Patman and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was adopted.

RECORD OF VOTES

Senators Jones and Mauzy asked to be recorded as voting "Nay" on the adoption of the resolution.

HOUSE BILL 1925 ON SECOND READING

On motion of Senator Doggett and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1925, A bill to be entitled An Act relating to the requiring of an annual license to sell property at auction; etc., and declaring an emergency.

The bill was read second time.

Senator Doggett offered the following Committee Amendment to the bill:

Amend Section 4 of **H.B. 1925** by adding a new Subsection C to read as follows:

"C. All fees shall be paid to the state treasury and placed in the General Revenue Fund."

The Committee Amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Amend **H.B. 1925** by adding a new Subsection (7) to Section 2 to read as follows:

"(7) A sale conducted by sealed bid."

The amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Amend **H.B. 1925** by amending Section 5 to read as follows:

"Section 5. BOND. (a) Each application for an auctioneer's license must be accompanied by a surety or cash performance bond in the principal amount of \$5,000 and shall be in conformity with the Insurance Code.

"(b) The bond shall be payable to the state for the use and benefit of any damaged party, and conditioned that the licensee will pay any judgment recovered by any consumer, the state, or any political subdivision thereof in any suit for damages, penalties, or expenses, including reasonable attorney's fees resulting from a cause of action involving the licensee's auctioneering activities. The bond shall be open to successive claims but the aggregate amount may not exceed the penalty of the bond."

The amendment was read and was adopted.

On motion of Senator Doggett and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 1925 ON THIRD READING

Senator Doggett moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1925** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: McKnight.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 2158 ON SECOND READING

On motion of Senator Hance and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2158, A bill to be entitled An Act relating to the membership and change of name of the Texas Board of Athletic Trainers and to the merger of the Texas Board of Athletic Trainers into the State Department of Health; etc., and declaring an emergency.

The bill was read second time and was passed to third reading.

HOUSE BILL 2158 ON THIRD READING

Senator Hance moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2158** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Andujar.

Absent-excused: McKnight.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Andujar.

Absent-excused: McKnight.

HOUSE BILL 1688 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1688, A bill to be entitled An Act relating to the amount of money an inmate is entitled to receive when released or discharged from a penitentiary; amending Section 28, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 6166z1, Vernon's Texas Civil Statutes); and declaring an emergency.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend **H.B. 1688** by striking the figure "\$250" where it appears in quoted Subsection 28 of Section 1 of the bill and substituting in lieu thereof the figure "\$200".

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 1688 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1688** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Longoria, Mauzy, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Lombardino.

Absent-excused: McKnight.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Lombardino asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE RULE 103 SUSPENDED

On motion of Senator Aikin and by unanimous consent, Senate Rule 103 was suspended in order that the State Affairs Committee might consider **H.B. 1699** today.

COMMITTEE SUBSTITUTE SENATE BILL 1073 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **C.S.S.B. 1073** was ordered not printed.

SENATE BILL 1111 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **S.B. 1111** was ordered not printed.

SENATE BILL 1101 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **S.B. 1101** was ordered not printed.

SENATE RESOLUTION 508 ORDERED NOT PRINTED

On motion of Senator Adams, and by unanimous consent, **S.R. 508** was ordered not printed.

SENATE CONCURRENT RESOLUTION 75 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **S.C.R. 75** was ordered not printed.

SENATE CONCURRENT RESOLUTION 77 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **S.C.R. 77** was ordered not printed.

SENATE CONCURRENT RESOLUTION 78 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **S.C.R. 78** was ordered not printed.

SENATE CONCURRENT RESOLUTION 81 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **S.C.R. 81** was ordered not printed.

HOUSE CONCURRENT RESOLUTION 119 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **H.C.R. 119** was ordered not printed.

HOUSE CONCURRENT RESOLUTION 120 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **H.C.R. 120** was ordered not printed.

HOUSE CONCURRENT RESOLUTION 81 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **H.C.R. 81** was ordered not printed.

SENATE CONCURRENT RESOLUTION 85 ORDERED NOT PRINTED

On motion of Senator Adams and by unanimous consent, **S.C.R. 85** was ordered not printed.

HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House was read the first time and referred to the Committee indicated:

H.C.R. 142, To Committee on Administration.

HOUSE BILL 836 ON SECOND READING

Senator Ogg asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 836, A bill to be entitled An Act relating to regulation of offers and sales of real estate syndicate securities; providing exemptions and penalties; and declaring an emergency.

There was objection.

Senator Ogg then moved to suspend the regular order of business and take up **H.B. 836** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 10.

Yeas: Andujar, Braecklein, Brooks, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Kothmann, Lombardino, Longoria, Meier, Mengden, Ogg, Patman, Santiesteban, Schwartz, Traeger and Williams.

Nays: Adams, Aikin, Clower, Creighton, Jones, Mauzy, McKinnon, Moore, Sherman and Snelson.

Absent-excused: McKnight.

The President laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time.

Senator Ogg offered the following Committee Amendment to the bill:

Amend **H.B. 836** by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. **SHORT TITLE.** This Act may be cited as the Texas Real Estate Syndicate Act.

Sec. 2. **DEFINITIONS.** In this Act:

(1) "Real estate syndicate" means a corporation, general or limited partnership, joint venture, unincorporated association, or similar organization having no more than 35 persons as real estate syndicate security holders and formed for the purpose of pecuniary profit from, and engaged in, investment in real property, including but not limited to a sale, exchange, trade, or development. An interest held by a husband and wife shall be considered held by one person.

(2) "Real property" includes an estate or interest in unimproved land, agricultural land, or land improved with a residential, commercial, industrial, or other structure.

(3) "Real estate syndicate security" means an interest in a real estate syndicate.

(4) The terms "sale" or "offer for sale" or "sell" shall include every disposition, or attempt to dispose of a real estate syndicate security for value. The term "sale" means and includes contracts and agreements whereby real estate syndicate securities are sold, traded or exchanged for money, property or other things of value, or any transfer or agreement to transfer, in trust or otherwise. Any real estate syndicate security given or delivered with or as a bonus on account of any purchase of securities or other thing of value, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. The term "sell" means any act by which a sale is made, and the term "sale" or "offer for sale" shall include a subscription, an option for sale, a solicitation of sale, a solicitation of an offer to buy, an attempt to sell, or an offer to sell, directly or by an agent or salesman.

(5) The terms defined in this section do not include:

(a) a bona fide secured transaction in or loan secured by outstanding certificates of interest, or

(b) an act incidental to judicially approved arrangement or reorganization in which certificates of interest are issued in exchange for one or more certificates in interest, claims or property interests, or partly in such exchange and partly for cash.

(6) "Administrator" means the Administrator of the Texas Real Estate Commission.

(7) "Real estate syndicate prospectus" means a prospectus containing material specified in Subsection (b), Section 6, of this Act.

(8) The term "sponsor" means a person performing the act and assuming the duties of a manager pursuant to the provisions of the agreement or instrument under which the real estate syndicate security is issued or a person in active control of the real estate who sells the interests or participations or a person who sells the interests or participations. The determination of a person in active control shall be made on the basis of the actual relationship of the parties and not on the basis of the legal designation of a person's interest.

(9) The term "issuer" means the real estate syndicate in which the real estate syndicate security represents an interest.

(10) The term "person" shall include a corporation, natural person, joint stock company, partnership, limited partnership, association, company, firm, syndicate, trust incorporated or unincorporated, heretofore or hereafter formed under the laws of this or any other state, country, sovereignty or political subdivision thereof, and shall include a government, or political subdivision or agency thereof. As used herein, the term "trust" shall be deemed to include a common law trust, but shall not include a trust created or appointed under or by virtue of a last will and testament or by a court of law or equity. Under the criminal penal provisions of Section 22 of this Act, the word "person" shall mean natural person. If an entity is formed for the purpose of acquiring an interest in a real estate syndicate, each holder of an interest in that entity shall be counted as a separate holder of the real estate syndicate.

(11) The term "applicant" shall mean any person, as defined in this section, applying for qualification of a real estate syndicate security as provided in Section 5 of this Act.

(12) "Commission" means the Texas Real Estate Commission.

Sec. 3. GENERAL EXCLUSIONS. The provisions of this Act do not apply to the following:

(1) real estate syndicate securities participating in the title or lease of oil, gas, or mining interests;

(2) a share, membership, or certificate of interest in a real estate investment trust subject to the provisions of the Texas Real Estate Investment Trust Act;

(3) a real estate syndicate security for which a registration statement has been filed and has become effective under the Securities Act of 1933;

(4) the sale or offer for sale of real estate syndicate securities made with public solicitation or advertisements as defined by the Texas Securities Act and as interpreted

by the State Securities Board.

Sec. 4. QUALIFICATION BY ISSUER. It is unlawful for any issuer or sponsor to offer or sell in this state a real estate syndicate security unless the real estate syndicate sale has been qualified under Section 5 and a copy of the qualified prospectus has been delivered to a prospective purchaser prior to any sale, or unless the real estate syndicate security or transaction is exempt under Section 3 or 4 of this Act. Provided, however, that a real estate syndicate having no more than 10 persons as real estate syndicate security holders need not be qualified as provided by Section 5 of this Act.

Sec. 5. QUALIFICATION: REAL ESTATE SYNDICATE PROSPECTUS: EFFECTIVENESS. (a) The sale of real estate syndicate securities automatically becomes qualified under this section 30 days after the filing by the issuer or sponsor of a real estate syndicate prospectus with the administrator unless within the 30-day period the administrator notifies the applicant that the real estate syndicate prospectus fails to comply with this Act or any rules and regulations promulgated by the administrator under the authority of this Act. If the applicant is so notified, the administrator shall specify in what regard the real estate syndicate prospectus fails to comply. The applicant may thereafter file an amendment to its original real estate syndicate prospectus in response to comments of the administrator. The administrator may not require an applicant to waive any provision of Section 5. For the purpose of qualification under this section the amended real estate syndicate prospectus shall be treated as an original filing by the administrator, and the 30-day period shall commence on the filing of the amendment. The administrator shall require satisfactory evidence that a qualified prospectus with all amendments has been delivered to a purchaser of a real estate syndicate security.

(b) Information required in the real estate syndicate prospectus shall contain no untrue statements of material facts and shall not omit to state material facts required to be stated in it or necessary to make the statements in it not misleading. The real estate syndicate prospectus shall contain information to the extent applicable to the plan of syndication as follows:

- (1) the name, residence, and principal business address of the sponsor;
- (2) if the sponsor is other than a natural person, the names, residence, and business address of all officers or members of the corporation, joint stock company, partnership, limited partnership, association, company, firm, syndicate, or trust;
- (3) a detailed statement of the plan of syndication, including but not limited to the legal form of the issuer and the number and aggregate amount of the real estate syndicate securities proposed to be sold;
- (4) a copy of partnership or other agreements governing the rights, duties, and liabilities of members or participants;
- (5) a legal description of the real property, including a detailed description of the existing or proposed improvements, if any;
- (6) a true statement of the condition of the title to the real property, including all encumbrances on the real property;
- (7) a copy of covenants, conditions, or restrictions, if any;
- (8) the detailed terms of the property acquisition, including but not limited to down payment and the amount, periodic payment, and terms of encumbrances, if any;
- (9) a copy of any management agreement, including the amount of any direct or indirect compensation or promotional interest to be received by the sponsor or any other persons in connection with the formation, sale, and management of the syndicate;
- (10) the name of the escrow depository, if any;
- (11) the amount, terms, and conditions of fire, liability, and hazard insurance;
- (12) a full description of all material risks assumed by a purchaser of the real estate syndicate security; and
- (13) a statement disclosing what percentage of the purchase price of the real estate syndicate security is for property acquisition and what percentage is for other

expenses. Said other expenses shall be specifically enumerated.

(c) The administrator may promulgate such rules and regulations as he may consider necessary requiring that additional information be set forth in the real estate syndicate prospectus. The administrator's rule making authority is limited solely to adopting rules and regulations which implement the full disclosure provisions of this Act. The administrator may permit by rule the use of supplemental sales material which is not misleading or deceptive. The administrator has no authority to promulgate rules or regulations which limit the terms of a transaction.

(d) Qualification of real estate syndicate securities under this section becomes effective 30 days after the filing of a real estate syndicate prospectus or the amendment to a real estate syndicate prospectus with respect to the securities to which the administrator has not objected in the manner set forth in Subsection (a) of this section. The effective date may be accelerated, at the discretion of the administrator, if he notifies the filing issuer that he has completed his review of the real estate syndicate prospectus or an amendment to the real estate syndicate prospectus and has no objection to its becoming effective immediately.

(e) Each qualification under this Act is effective for 12 months after its effective date, unless the administrator by order or rule specifies a different period.

(f) At least three copies of a real estate syndicate prospectus or an amendment to the prospectus, filed with the administrator under this Act shall be signed and verified by the sponsor. The verification shall be in the manner provided for the verification of pleadings. All information required to be included in a real estate syndicate prospectus shall be true and complete as of the time the qualification of the sale of real estate syndicate securities becomes effective. The sponsor of real estate syndicate securities for which a prospectus is filed shall promptly supply by amendment prior to the effectiveness of the qualifications any information based on facts occurring after the original date of filing which is necessary to supplement or correct the information contained in the original application so as to make the information not materially misleading as of the effective date of the qualification. After qualification has become effective, the sponsor of the real estate syndicate securities so qualified shall promptly supply by amendment any information based on facts occurring after the effectiveness of the qualification which is necessary to supplement or correct the information contained in the original application as amended prior thereto, so as to make the information not materially misleading.

(g) An offer, but not a sale, and the execution and delivery of an agreement for the sale of real estate syndicate securities pursuant to the offer may be permitted by the administrator on application. The granting of a negotiating application under this subsection shall be conditioned to the effect that none of the real estate syndicate securities may be issued and none of the consideration therefor may be received or accepted until the sale of securities is qualified under this Act.

Sec. 6. AMENDMENT TO PROSPECTUS. An amendment to a real estate syndicate prospectus filed after the effective date of the qualification of the sale of real estate syndicate securities becomes effective 30 days after its filing with the administrator unless the administrator notifies the issuer that the amendment fails to comply with the provisions of this Act or any rules and regulations promulgated by the administrator in accordance with this Act. The procedures applicable to an amendment are the same as those applicable to an original filing under this Act.

Sec. 7. BURDEN OF PROOF. In a proceeding under this Act, the burden of proving an exemption or an exception from a provision of this Act is on the person claiming it.

Sec. 8. ACTION OF ADMINISTRATOR NOT ENDORSEMENT. (a) Neither the fact that a real estate prospectus for qualification under this law has been filed nor the fact that the qualification has become effective constitutes a finding by the administrator that any information filed under this law is true, complete, or not misleading. Neither of these facts nor the fact that an exemption is available for a real

estate syndicate security or a transaction means that the administrator has passed in any way on the merits or qualifications of, or recommended or given approval to, any person, real estate syndicate security, or transaction.

(b) It is unlawful to make or cause to be made to a prospective purchaser a representation inconsistent with Subsection (a) of this section.

Sec. 9. **CONSENT TO SERVICE OF PROCESS.** Each applicant filing for qualification of sales of real estate syndicate securities under this Act shall file with the administrator, in the form that he by rule prescribes, an irrevocable consent appointing the administrator or his successor in office to be his attorney to receive service of a lawful process in a noncriminal suit, action, or proceeding against him or his successor, executor, or administrator that arises under this Act or rule or order promulgated under this Act after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the administrator but it is not effective unless

(1) the plaintiff, who may be the administrator and the Attorney General in a suit, action, or proceeding instituted by them, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his last address on file with the administrator; and

(2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

Sec. 10. **FRAUDULENT ACTS.** It is unlawful for a person, in connection with the sale, offering for sale or delivery of, the purchase, offer to purchase, invitation of offers to purchase, invitations of offers to sell, or dealing in any other manner in any real estate syndicate security or securities not exempt from this Act as provided in Section 3, to directly or indirectly (1) engage in any fraud or fraudulent practice, or (2) employ any device, scheme, or artifice to defraud, or (3) knowingly make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or (4) engage in any act, practice or course of business which operates or will operate as a fraud or deceit upon any person.

Sec. 11. **LEGEND AS TO PERMISSIVE ISSUANCE.** Each real estate syndicate prospectus shall recite in bold type that the qualification of the prospectus is permissive only and does not constitute a recommendation or endorsement by the administrator of the real estate syndicate securities to be issued.

Sec. 12. **BOOKS; RECORDS; ACCOUNTS.** Each sponsor qualifying real estate syndicate securities for sale in this state shall at all times keep and maintain a complete set of books, records, and accounts of the sales and the disposition of the proceeds of the sales and shall thereafter, at such times as are required by the administrator, make and file in the office of the administrator a report setting forth the interests sold by it under the qualification, the proceeds derived from the sale, and the disposition of the proceeds. Each issuer shall submit an accounting to each holder of a real estate syndicate security no later than 72 days after the close of the fiscal year which shall include the current financial status and other pertinent data relating to the real estate syndicate security.

Sec. 13. **SUBSCRIPTION OR SALE CONTRACT; SPECIFIED FORM.** The administrator may by rule or order require as a condition of qualification that any real estate syndicate securities sold in accordance with this Act be sold only on a specified form of subscription or sale contract and that a signed or conformed copy of each contract be preserved for a period of up to three years, as specified in the rule or order.

Sec. 14. **HEARING ON DENIAL.** An applicant objecting to the denial of qualification under this Act, or to a condition in the qualification, may within 30 days after receipt of the denial or order file a written request for a hearing. The hearing shall be held within 30 days after the request is received unless the party requesting the

hearing requests a postponement. If the hearing is not held within 30 days after the hearing request is received, plus the period of any postponement, or if a proposed decision is not rendered within 10 days after the hearing, and an order adopting or rejecting the proposed decision is not issued within 15 days thereafter, the order of denial or imposition of the condition is rescinded, the real estate syndicate securities in question shall be qualified under this Act.

Sec. 15. CEASE AND DESIST ORDERS. When the administrator finds that an issuer or other person is violating a provision of this Act or of the regulations pertaining to this Act, the administrator may order the person to cease and desist from violating the provisions of this Act or of the regulations, or from the further sale of real estate syndicate securities. After such an order is issued, the person or persons named in the order may, within 30 days after receipt of the order, file a written request for a hearing. The hearing shall be held within 30 days after the request is received unless the party requesting the hearing requests a postponement. If the hearing is not held within 30 days after the request for a hearing, plus the period of any postponement, or a proposed decision is not rendered within 10 days after the hearing, and an order adopting or rejecting the decision is not issued within 15 days thereafter, the order is rescinded.

Sec. 16. APPEAL PROCESS. (a) A person aggrieved by a ruling, order, or decision of the commission has the right to appeal to a district court in the county where the hearing was held within 30 days from the service of notice of the action of the commission.

(b) In all appeals prosecuted in any of the Courts of this State pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from Justice of the Peace Courts to County Courts. When such an appeal is filed and the Court thereby acquired jurisdiction, all administrative or executive action taken prior thereto shall be null and void and no force and effect, and the rights of the parties thereto shall be determined by the Court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the Courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the Courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act.

(c) If an aggrieved person fails to perfect an appeal as provided in this section, the administrator's and/or the commission's ruling becomes final.

Sec. 17. EXAMINATIONS; ADMINISTRATOR'S INVESTIGATIVE AUTHORITY. The administrator in his discretion may make such examinations or investigations as he considers necessary to determine whether a person or company has violated a provision of this Act, or a regulation, order, or permit under this Act. For the purpose of an examination or investigation under this Act, the administrator, or an officer designated by him, may administer oaths and affirmations, subpoena witnesses, compel their attendance, audit books, accounts, and records, take evidence and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator considers relevant or material to the inquiry.

Sec. 18. FEES. (a) The fee for filing a real estate syndicate prospectus with the administrator is one-tenth of one percent of the total aggregate selling price of the real estate syndicate securities sought to be qualified, except that in no instance shall the fee be more than \$500. This fee shall be paid upon the filing of a real estate syndicate prospectus or upon the granting of a negotiating application as provided in Section 6 of this Act, whichever first occurs.

(b) The fee for filing an amendment to a real estate syndicate prospectus after its qualification has become effective is \$50. Where the amendment will result in an increase in the aggregate amount of real estate syndicate securities being offered, the

fee shall be in accordance with Subsection (a) of this section as to the amount of the increase only.

Sec. 19. **INJUNCTIONS.** When it appears to the administrator that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this Act or a rule or order under this Act, he may in his discretion request the Attorney General of Texas to bring an action in the name of the people of the State of Texas in the district court of Travis County to enjoin the acts or practices or to enforce compliance with this Act or a rule or order under this Act, and in order to sustain any injunction it shall not be necessary to allege or prove, either that an adequate remedy at law does not exist, or that substantial or irreparable injury or damage would result from the continued violation thereof. On a proper showing, a permanent or preliminary injunction or restraining order shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the administrator to post a bond.

Sec. 20. **PUBLIC AND PRIVATE INVESTIGATIONS BY ADMINISTRATOR.** The administrator in his discretion may make public or private investigations, inside or outside this state, that he considers necessary to determine whether a person has violated or is about to violate a provision of this Act, or a rule or order under this Act, or to aid in the enforcement of this law or in the prescribing of rules and forms under this Act.

Sec. 21. **RULEMAKING POWER.** The administrator may establish rules that are reasonably necessary to carry out the intent and purpose of the provisions of this Act.

Sec. 22. **PENALTIES.** A person who willfully violates a provision of Section 4 or 10 of this Act, or who willfully violates an order issued under Section 15 of this Act, shall on conviction be fined not more than \$5,000, or imprisoned in the state penitentiary for not more than 5 years or be confined in a county jail for not more than one year, or be punished by both fine and imprisonment; but no person may be imprisoned or fined for the violation of an order if he proves that he had no knowledge of the order.

Sec. 23. **CRIMES UNDER OTHER STATUTES.** The provisions of this Act do not limit the power of the state to punish any conduct which constitutes a crime under any other statute.

Sec. 24. **PARTIES TO VIOLATION: WHEN LIABLE.** An escrow holder, attorney, accountant, lender, or title insurance company is not liable for violation of a provision of this Act unless it has actual knowledge of the violation, or participated as a principal or agent in the real estate syndicate, other than in its capacity as escrow holder, lender, or title insurance company.

Sec. 25. **WAIVER OF COMPLIANCE RENDERED VOID.** A condition, stipulation, or provision purporting to bind a person acquiring a real estate syndicate security to waive compliance with a provision of this Act or a regulation or order under this Act, is void unless prior written approval by the administrator is obtained.

Sec. 26. **RECOVERY OF PURCHASE PRICE.** A person who violates this Act is liable to a person acquiring from him the real estate syndicate security sold in violation hereof. The person to whom he is liable may sue to recover the consideration paid for the real estate syndicate security with interest at the legal rate, less the amount of income received from the real estate syndicate security on the tender of the real estate syndicate security, or if he no longer owns the real estate syndicate security, he may sue for damages equal to the difference between his purchase price plus interest at the legal rate from the date of purchase and a total amount consisting of the value of the real estate syndicate security at the time it was disposed of by the plaintiff plus the amount of income received from the real estate syndicate security by the plaintiff, together with such relief as the court may consider proper.

Sec. 27. **LIMITATION ON ACTION.** (a) No action shall be maintained to enforce a liability created under this Act unless it is brought before the expiration of

three years after the act or transaction constituting the violation.

(b) A purchaser of a real estate syndicate security may not commence an action under the provisions of this Act, if, before suit is commenced, the purchaser receives a written offer as prescribed in this subsection and the purchaser fails to accept the offer in writing within the specified period after receipt of the offer. The written offer to the purchaser of the real estate syndicate security shall:

(1) state the respect in which liability under this Act may have arisen;

(2) offer to repurchase the real estate syndicate security for cash price payable on delivery of the real estate syndicate security equal to the consideration paid, with interest at the legal rate from the date of payment, less the amount of income received on the real estate syndicate security, or if the purchaser no longer owns the real estate syndicate security, offer to pay the purchaser on the acceptance of the offer an amount in cash equal to the damages computed in accordance with Section 28 of this Act, providing that the offer may be accepted by the purchaser at any time within a specified period of not less than 30 days after the date of receipt of the offer; and

(3) set forth the provisions of this subsection.

Sec. 28. ALLOCATION OF ADMINISTRATIVE FUNCTION. (a) No provision of this Act shall be construed to limit the powers, duties, and responsibilities presently exercised by the State Securities Commissioner regarding the sale or proposed sale of any real estate syndicate securities which would tend to work a fraud on any purchaser thereof.

(b) The State Securities Commissioner shall retain all powers, duties, and responsibilities in administering the law relating to real estate syndicate securities excluded from the provisions of this Act as provided in Section 3.

(c) Unless otherwise provided in this Section, on January 1, 1976, the administrator shall succeed to all the powers, duties, and responsibilities presently exercised by the State Securities Commissioner in administering the law relating to real estate syndicate securities as defined in this Act.

Sec. 29. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force on and after January 1, 1976, and it is so enacted.

The Committee Amendment was read.

(Senator Hance in the Chair)

Senator Mauzy offered the following amendment to the amendment:

Amend H.B. 836 by striking the last sentence of Section 4 of the printed bill, lines 38-41, page 2.

The amendment to the amendment was read.

Senator Ogg moved to table the amendment to the amendment.

The motion to table prevailed by the following vote: Yeas 19, Nays 10.

Yeas: Adams, Andujar, Bracklein, Brooks, Farabee, Gammage, Harris, Jones, Kothmann, Lombardino, Longoria, Meier, Mengden, Ogg, Patman, Santiesteban, Snelson, Traeger and Williams.

Nays: Aikin, Clower, Creighton, Doggett, Hance, Harrington, Mauzy, McKinnon, Schwartz and Sherman.

Absent: Moore.

Absent-excused: McKnight.

Senator Ogg offered the following amendment to the amendment:

Amend Section 24 of the Committee Amendment to **H.B. 836** to read as follows:

"Sec. 24. **PARTIES TO VIOLATION: WHEN LIABLE.** An escrow holder, attorney, accountant, lender, or title insurance company is not liable for violation of a provision of this Act unless the individual or company had actual knowledge of the violation, or participated as a principal or agent in the real estate syndicate, other than in the capacity as escrow holder, attorney, accountant, lender, or title insurance company".

The amendment to the amendment was read and was adopted.

RECORD OF VOTE

Senator Clower asked to be recorded as voting "Nay" on the adoption of the amendment to the amendment.

Senator Clower offered the following amendment to the amendment:

Amend **H.B. 836** by striking Section 3, Subsection (1).

The amendment to the amendment was read.

Senator Ogg moved to table the amendment to the amendment.

The motion to table prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Adams, Andujar, Braecklein, Brooks, Doggett, Farabee, Gammage, Harris, Jones, Kothmann, Lombardino, Longoria, Meier, Mengden, Ogg, Patman, Santiesteban, Sherman, Snelson, Traeger and Williams.

Nays: Aikin, Clower, Creighton, Hance, Harrington, Mauzy, McKinnon and Schwartz.

Absent: Moore.

Absent-excused: McKnight.

Senator Sherman offered the following amendment to the amendment:

Amend **H.B. 836**, Section 24, by adding after the word "violation" and before the word "or" the following:

"or unless it fails to exercise due diligence in the exercise of its duties under this Act,".

The amendment to the amendment was read.

Senator Ogg raised the Point of Order that the amendment seeks to change an amendment already adopted at the same stage of the bill.

The Presiding Officer sustained the Point of Order.

Question - Shall the Committee Amendment as amended be adopted?

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 365

Senator Santiesteban submitted the following Conference Committee Report:

Austin, Texas
May 20, 1975

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 365** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SANTIESTEBAN
LONGORIA
OGG
CLOWER
BROOKS
On the part of the Senate

KASTER
AGNICH
PEVETO
FOX
DONALDSON
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

BILLS SIGNED

The Presiding Officer announced the signing by the President in the presence of the Senate after the caption had been read, the following enrolled bills:

S.B. 86
S.B. 348 (Again signed)
S.B. 632
S.B. 704
S.B. 806
S.B. 993
H.B. 98
H.B. 2018

MESSAGE FROM THE HOUSE

Hall of the House of Representatives
Austin, Texas, May 21, 1975

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 34, Granting permission to David Melville "Buck" McCullough, Goodall Wooten "Hank" McCullough, George H. McCullough and the Estate of Ella Newsome Wooten to sue the State of Texas.

S.C.R. 41, Memorializing the President of the United States to do all acts necessary to enter into a treaty with the Republic of Mexico concerning public transportation systems for the cities along the international border between the two nations.

S.C.R. 42, Granting permission for South Padre Development Company, Inc. to sue the state.

S.C.R. 43, Granting John R. Jenkins permission to sue the State of Texas.

S.C.R. 44, Granting Maryland Casualty Company and Northern Insurance Company permission to sue the state.

S.C.R. 57, Granting Walter E. and Dorothy E. Gunderman permission to sue the State of Texas.

S.C.R. 64, Granting T. C. Bateson Construction Co. et al., permission to sue the state.

S.C.R. 35, Permitting Elida Blanco to sue the state.

S.B. 113, A bill to be entitled An Act designating a certain highway route as Bicentennial Trail; and declaring an emergency.

S.B. 304, A bill to be entitled An Act amending Subsection (c), Section 25.07, Texas Education Code, so as to change the amount of surety bond requirement of a tax collector of a rural high school district having its own tax collector; and declaring an emergency.

S.B. 437, A bill to be entitled An Act relating to the establishment, organization, governance, administration, maintenance, operation, powers, duties, rights, privileges,

functions, and financing of the Nueces River Authority; amending Chapter 427, Acts of the 44th Legislature, 1st Called Session, 1935, as amended (Article 8280-115, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 527, A bill to be entitled An Act amending Paragraph (d) of Subsection 11 of Section 6 of Chapter 127, Acts of the Regular Session of the 60th Legislature, as amended by Chapter 213, Acts of the Regular Session of the 62nd Legislature (Article 6228g, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 643, A bill to be entitled An Act amending Section 3 of Chapter 341, Acts of the 57th Legislature, Regular Session, 1961 (Article 1187f, Vernon's Texas Civil Statutes), relating to the issuance of certain bonds by coastal cities of more than 5,000 population; and declaring an emergency.

S.B. 729, A bill to be entitled An Act relating to reporting requirements for certain laboratory supervisors when specimen examinations yield evidence suggestive of certain venereal diseases; amending Section 1, Subsection (a) of Section 2, and Subsection (a) of Section 5, Chapter 537, Acts of the 61st Legislature, Regular Session, 1969 (Article 4445c, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 796, A bill to be entitled An Act relating to the membership of juvenile boards in Comal, Hays, Caldwell, Austin, and Fayette Counties; amending Section 1, Chapter 163, Acts of the 57th Legislature, Regular Session, 1961 (Article 5139II, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 797, A bill to be entitled An Act relating to the creation of the constitutional office of Criminal District Attorney of Hays County; abolishing the office of County Attorney of Hays County; and declaring an emergency. (With amendment)

S.B. 924, A bill to be entitled An Act relating to standards for licensing nursing home administrators and grounds for revocation, suspension, and refusal to renew a license; amending Sections 6 and 11, Texas Nursing Home Administrators Licensure Act (Article 4442d, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 943, A bill to be entitled An Act relating to child support collection and paternity determination services; amending Section 18-B, The Public Welfare Act of 1941, as amended (Article 695c, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 1028, A bill to be entitled An Act amending Acts 1933, 43rd Legislature, First Called Session, page 198, Chapter 75, as amended by Acts 1935, 44th Legislature, First Called Session, page 1615, Chapter 410, and by Acts 1969, 61st Legislature, Regular Session, page 1465, Chapter 432 (codified as Article 8280-106, Vernon's Texas Civil Statutes), by amending Sections 1, 2, 7, 9, 11, 12, 13, 15 and 16 thereof; finding notice of intention to introduce this Act; containing a severability clause; and declaring an emergency. (With amendment)

S.B. 1039, A bill to be entitled An Act relating to the creation, administration, powers, duties, functions, and financing of the Alvarado Water Authority; and declaring an emergency.

All necessary rules suspended and the Conference Committee Report on **S.B. 699** adopted by record vote of: Yeas 131, Nays 0, Present-Not voting 14.

The House refused to concur in Senate amendment to **H.B. 292** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Munson, Chairman; Weiting, Bigham, Short and Wilson.

The House concurred in Senate amendments to **H.B. 226** by record vote of: Yeas 114, Nays 27, Present-Not voting 1.

Respectfully submitted,
DOROTHY HALLMAN
Chief Clerk, House of Representatives

NOTICE OF LOCAL AND UNCONTESTED BILLS CALENDAR

On motion of Senator Adams and by unanimous consent, the Senate agreed to hold a Local and Uncontested Bills Calendar at 8:30 o'clock a.m. tomorrow.

NOTICES OF INTENT

The following Notices of Intent were filed with the Secretary of the Senate:

H.B. 42 - Senator Mauzy (Third reading)
H.B. 82 - Senator Mauzy (Third reading)
H.B. 114 - Senator Sherman
C.S.H.B. 275 - Senator Meier
H.B. 280 - Senator Brooks
H.B. 519 - Senator Mauzy
H.B. 570 - Senator Doggett
C.S.H.B. 643 - Senator Brooks
H.B. 785 - Senator Moore
H.B. 820 - Senator Meier
H.B. 839 - Senator Farabee
H.B. 932 - Senator Brooks
H.B. 1017 - Senator Jones
H.B. 1097 - Senator Meier
H.B. 1372 - Senator Gammage
H.B. 1886 - Senator Santiesteban
H.B. 2136 - Senator Snelson
H.B. 2173 - Senator Patman
C.S.S.B. 69 - Senator Moore
C.S.S.B. 109 - Senator Mauzy
C.S.S.B. 110 - Senator Mauzy
C.S.S.B. 116 - Senator Mengden
C.S.S.B. 117 - Senator Mengden
C.S.S.B. 162 - Senator Harris
S.B. 196 - Senator Santiesteban (Third reading)
C.S.S.B. 250 - Senator Mauzy
S.B. 257 - Senator Mauzy
S.B. 317 - Senator Mengden
S.B. 418 - Senator Ogg
S.B. 430 - Senator Mengden
C.S.S.B. 448 - Senator Mauzy
C.S.S.B. 449 - Senator Mauzy
C.S.S.B. 526 - Senator Harrington
S.B. 557 - Senator Hance

S.B. 594 - Senator Braecklein
S.B. 614 - Senator Clower
S.B. 656 - Senator Andujar
C.S.S.B. 706 - Senator Mauzy
S.B. 708 - Senator Mauzy
S.B. 719 - Senator Mauzy
S.B. 725 - Senator Patman
C.S.S.B. 777 - Senator Mengden
S.B. 779 - Senator Mengden
C.S.S.B. 781 - Senator Mengden
C.S.S.B. 784 - Senator Harris
S.B. 847 - Senator Hance
C.S.S.B. 857 - Senator Clower
S.B. 879 - Senator Patman
C.S.S.B. 884 - Senator Hance
S.B. 899 - Senator Mauzy
C.S.S.B. 912 - Senator Ogg
S.B. 919 - Senator Ogg
C.S.S.B. 939 - Senator Mauzy
S.B. 973 - Senator Santiesteban
S.B. 974 - Senator Santiesteban
S.B. 976 - Senator Santiesteban
S.B. 987 - Senator Ogg
S.B. 1050 - Senator Patman
S.B. 1078 - Senator Hance
S.B. 1085 - Senator Clower
S.B. 1111 - Senator Creighton

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 589 - By Senator Lombardino: Extending congratulations to John J. Monfrey.

S.R. 590 - By Senator Adams: Extending congratulations to Miss Marilyn Magness.

S.R. 591 - By Senator Ogg: Extending welcome to students from Pilgrim Lutheran School from Houston, Texas.

S.R. 593 - By Senator Brooks: Extending congratulations to Julius A. Knigge.

RECESS

On motion of Senator Adams the Senate at 12:22 o'clock p.m. took recess until 8:30 o'clock a.m. tomorrow.

RECORD OF VOTE

Senator Ogg asked to be recorded as voting "Nay" on the motion to take recess.

APPENDIX**Sent to Governor****(May 21, 1975)**

S.B. 86
S.B. 348 (Again sent)
S.B. 632
S.B. 704
S.B. 806
S.B. 993

SEVENTY-EIGHTH DAY**(Continued)****(Thursday, May 22, 1975)**

The Senate met at 8:30 o'clock a.m., and was called to order by Senator Adams.

LEAVE OF ABSENCE

Senator McKnight was granted leave of absence for today on account of illness on motion of Senator Moore.

**INTERGOVERNMENTAL RELATIONS COMMITTEE GRANTED
PERMISSION TO MEET**

On motion of Senator Snelson and by unanimous consent, the Committee on Intergovernmental Relations was granted permission to meet while the Senate was in session.

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Adams in the Chair) announced that the time had arrived for the consideration of the Local and Uncontested Bills Calendar in accordance with the provisions of **S.R. 170**.

The following bills were laid before the Senate, read second time, passed to engrossment, read third time and passed: (Sponsor, vote on suspension of the Constitutional Three-Day Rule and final passage indicated after each bill.)

S.B. 995 (Harrington)(30-0)(30-0)

C.S.S.B. 1038 (Mauzy)(30-0)(30-0)

C.S.S.B. 1072 (Ogg)(30-0)(30-0)
C.S.S.B. 1073 (Adams)(30-0)(30-0)
S.B. 1092 (Traeger)(30-0)(30-0)
S.B. 1101 (Lombardino)(30-0)(30-0)
S.B. 1106 (Patman)(30-0)(30-0)
S.B. 1110 (Patman)(30-0)(30-0)
S.B. 1111 (Creighton)(30-0)(30-0)
S.B. 1113 (Williams)(30-0)(30-0)
S.B. 1115 (Patman)(30-0)(30-0)
S.B. 1116 (Patman)(30-0)(30-0)
S.B. 1119 (Sherman)(30-0)
S.B. 1122 (Moore)(30-0)(30-0)
S.C.R. 75 (Lombardino)(vv)
S.C.R. 77 (Santiesteban)(vv)
S.C.R. 78 (Santiesteban)(vv)
S.C.R. 85 (Doggett)(vv)
S.R. 508 (Doggett)(vv)
H.B. 197 (Creighton)(30-0)(30-0)
H.B. 325 (Traeger)(30-0)(30-0)
H.B. 326 (Traeger)(30-0)(30-0)
H.B. 504 (Mauzy)(30-0)(30-0)
H.B. 525 (Snclson)(30-0)(30-0)
H.B. 630 (McKnight)(30-0)(30-0)
H.B. 641 (Santiesteban)(30-0)(30-0)
H.B. 756 (McKnight)(30-0)(30-0)
H.B. 868 (McKnight)(30-0)(30-0)
H.B. 923 (Santiesteban)(30-0)(30-0)

H.B. 965 (Jones)(30-0)(30-0)
H.B. 977 (Santiesteban)(30-0)(30-0)
H.B. 1002 (Traeger)(30-0)(30-0)
H.B. 1019 (Longoria)(30-0)(30-0)
H.B. 1061 (Jones)(30-0)(30-0)
H.B. 1139 (McKnight)(30-0)(30-0)
H.B. 1278 (Adams)(30-0)(30-0)
H.B. 1321 (Lombardino)(30-0)(30-0)
H.B. 1333 (Adams)(30-0)(30-0)
H.B. 1346 (Sherman)(30-0)(30-0)
H.B. 1349 (Traeger)(30-0)(30-0)
H.B. 1530 (Hance)(30-0)(30-0)
H.B. 1554 (Harrington)(30-0)(30-0)
H.B. 1579 (Farabee)(30-0)(30-0)
H.B. 1581 (Doggett)(30-0)(30-0)
H.B. 1619 (Adams)(30-0)(30-0)
H.B. 1751 (Williams)(30-0)(30-0)
H.B. 1887 (Schwartz)(30-0)(30-0)
H.B. 2096 (Harrington)(30-0)(30-0)
C.S.H.B. 2151 (McKinnon)(30-0)(30-0)
H.B. 2162 (McKinnon)(30-0)(30-0)
H.B. 2171 (Adams)(30-0)(30-0)
H.B. 2177 (McKinnon)(30-0)(30-0)
H.C.R. 81 (Doggett)(vv)
H.C.R. 119 (McKinnon)(vv)
H.C.R. 120 (McKinnon)(vv)

The following bills were laid before the Senate, read second time, amended, passed to engrossment, read third time and passed: (Amendment printed following bill number, as well as vote on suspension of Constitutional Three-Day Rule and final

passage.)

H.B. 115 (Sherman)—

Senator Sherman offered the following Committee Amendment to the bill:

Amend **H.B. 115** by substituting the following:

"A BILL TO BE ENTITLED

"AN ACT

"amending Section 51.184, Water Code, relating to preference in use of water in water control and improvement districts; adding Subsection (d) to provide for the implementation of Section 51.184 (b) and (c) and requiring amendments to the district's water rights; and declaring an emergency.

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"Section 1. Section 51.184, Texas Water Code, is hereby amended by adding Subsection (d) which shall read as follows:

"(d) The board may implement the action prescribed in Subsection (b) or in Subsections (b) and (c) above, and shall obtain necessary amendments to the district's permit, certified filing, or certificate of adjudication in the manner provided in Section 5.1211 of this Code."

"Sec. 2. No action or proceeding commenced prior to the effective date of this Act and no right accrued by actual change prior to the effective date of this Act shall be affected by the enactment of this Act.

"Sec. 3. The fact that a recent decision of the Austin Court of Civil Appeals may have limited the primary jurisdiction of the Texas Water Rights Commission to supervise and regulate changes in water rights and may have affected the jurisdiction of the commission to regulate and cancel water rights, and to administer the Water Rights Adjudication Act, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The Committee Amendment was read and was adopted.

On motion of Senator Sherman and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (30-0)(30-0)

S.B. 857 (Clower)—

Senator Adams offered the following amendment to the bill:

Amend **C.S.S.B. 857** by deleting Paragraph (a) of Section 2 and relettering following subsections accordingly.

The amendment was read and was adopted.

On motion of Senator Clower and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (30-0)(30-0)

C.S.S.B. 916 (Harrington)—

Senator Harrington offered the following amendment to the bill:

Amend Section 3(a) by striking "60" and inserting "65".

The amendment was read and was adopted.

On motion of Senator Harrington and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (30-0)(30-0)

S.B. 1068 (Harris)—

Senator Harris offered the following Committee Amendment to the bill:

Amend **S.B. 1068** by striking the word "seven (7)" where it appears on line 17 of page 1 and substituting therefor the word "nine (9)".

The Committee Amendment was read and was adopted.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (30-0)(30-0)

S.B. 1104 (Andujar)—

Senator Andujar offered the following Committee Amendment to the bill:

Amend Committee Amendment No. 1 to **S.B. 1104**, Second Printing, by striking lines 8 through 12, page 11, and substituting the following:

"(3) a nurseryman, holding a certificate from the commissioner of agriculture pursuant to Articles 126 and 126a, Revised Civil Statutes of Texas, 1925, as amended, when doing pest control work on growing plants, trees, shrubs, grass, or other horticultural plants; and [an employee of a person licensed to engage in the business of structural pest control; and]".

The Committee Amendment was read and was adopted.

On motion of Senator Andujar and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (30-0)(30-0)

S.B. 1117 (Patman)—

Senator Patman offered the following Committee Amendment to the bill:

Amend **S.B. 1117**, as introduced, by renumbering the present Section 3 as Section 4 and adding a new Section 3 to read as follows:

"Sec. 3. Subsection (a), Section 3, Chapter 25, Acts of the 55th Legislature, 1st Called Session, is amended to read as follows:

"(a) All powers of the District shall be exercised by a Board of eleven (11) Directors. Each Director shall serve for his term of office as herein provided and thereafter until his successor shall be elected or appointed and qualified. No person shall be a director unless he is twenty-one years of age, resides in Karnes County, Texas, DeWitt County, Texas, or Wilson County, Texas, and owns property in the territorial limits of the District. No member of a governing body of any county, city or town, and no employee of a county, city or town shall be a Director. Such Directors shall subscribe to the Constitutional oath of office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000.00) for the faithful performance of his duties.

the cost of which shall be paid by the District. A majority shall constitute a quorum.”

The Committee Amendment was read and was adopted.

On motion of Senator Patman and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (30-0)(30-0)

S.C.R. 81 (Hance)—

Senator Hance offered the following Committee Amendment to the resolution:

“RESOLVED, that nothing in this resolution may be construed as a waiver of any defense of fact or law available to the State of Texas or to any of its employees, agents, departments, agencies, or political subdivisions, but every defense is specifically reserved.”

The Committee Amendment was read and was adopted.(vv)

H.B. 458 (Schwartz)—

Senator Schwartz offered the following Committee Amendment to the bill:

Amend **H.B. 458**, on page 1, line 20, by striking the word “may” and inserting in lieu thereof the word “shall”, and striking on line 10, page 2, the word “may” and inserting in lieu thereof the word “shall”, and by striking on line 1, page 3, the word “may” and inserting in lieu thereof the word “shall”, and by striking on line 19, page 3, the word “may” and inserting in lieu thereof the word “shall”.

The Committee Amendment was read and was adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (30-0)(30-0)

H.B. 1660 (Braecklein)—

Senator Braecklein offered the following Committee Amendment to the bill:

Amend Section 2 of House Bill 1660 at page 2, line 3, by inserting the word “and” before the phrase “that all bonds”.

The Committee Amendment was read and was adopted.

Senator Braecklein offered the following Committee Amendment to the bill:

Amend **H.B. 1660** by striking Section 6 therefrom and substituting the following:

“Sec. 6. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.”

The Committee Amendment was read and was adopted.